

MARTIN & FERRARO, LLP  
1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632

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<b>TO:</b>	<b>FROM:</b>
<b>Name:</b> Mail Stop AMENDMENT Group Art Unit 3764/Examiner Michael Brown	<b>Name:</b> Thomas H. Martin, Esq.
<b>Firm:</b> U.S. Patent & Trademark Office	<b>Phone No.:</b> 330-877-2277
<b>Fax No.:</b> 571-273-8300	<b>No. of Pages (including this):</b> 5
<b>Subject:</b> U.S. Patent Application No. 10/740,747 Gary Karlin Michelson Filed: December 19, 2003 IMPLANT WITH LOCKING THREAD CONFIGURATION FOR INSERTION BETWEEN BONE STRUCTURES (as amended) Attorney Docket No. 102.0001-12000 Customer No. 22882 Confirmation No.: 4978	<b>Date:</b> April 4, 2006  <b>Confirmation Copy to Follow:</b> NO

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Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Transmittal Form (in duplicate) and Reply to Restriction Requirement are being facsimile transmitted to the U.S. Patent and Trademark Office on April 4, 2006.

  
Sandra L. Blackmon

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FORM PTO-1083

PATENT  
Attorney Docket No.: 102.0001-12000  
Customer Number 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson

Serial No: 10/740,747

Filed: December 19, 2003

For: IMPLANT WITH LOCKING THREAD  
CONFIGURATION FOR INSERTION  
BETWEEN BONE STRUCTURES (as  
amended)

Confirmation No.: 4978

Group Art Unit: 3764

Examiner: Michael brown

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Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450


Dear Sir:

Transmitted herewith is a Reply to the Office Action of March 31, 2006 in the above-identified application.

- ☒ No additional fee is required.
- ☐ Applicant hereby requests a \*\*\*-month extension of time to respond to the above office action.
- ☐ The total amount of \$\_\_\_\_ to cover the above fees is to be charged to Deposit Account No. 50-3726.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726. **A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO LLP

Date: April 4, 2006

By:   
Thomas H. Martin  
Registration No. 34,383

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: 330-877-0700  
Facsimile: 330-877-2030

FORM PTO-1083

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Attorney Docket No. 102.0001-12000  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Confirmation No.: 4978  
Gary Karlin Michelson )  
Serial No.: 10/740,747 ) Group Art Unit: 3764  
Filed: December 19, 2003 )  
For: IMPLANT WITH LOCKING THREAD ) Examiner: M. Brown  
CONFIGURATION FOR INSERTION )  
BETWEEN BONE STRUCTURES )  
(as amended) )

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Alexandria, VA 22313-1450

Sir:

**REPLY TO RESTRICTION REQUIREMENT**

In response to a restriction requirement dated March 31, 2006, Applicant provisionally elects to prosecute claims 19-31 directed to Group II, with traverse.

Applicant respectfully traverses the Examiner's contention that "currently, no claims generic." Independent claim 19 (Group II) recites an implant with "at least one surface projection" which is "configured to resist backward rotation of said body once said body has been inserted between the portions of bone." Independent claim 1 (Group I) recites a device with "a helical thread" including "at least one deviation adapted to resist backward rotation of said elongated body once it is inserted between the boney structures." Applicant submits that the subject matter of claim 1 is a species of the generic subject matter of claim 19 because a "thread" is a specific type of "surface projection." Accordingly, Applicant respectfully requests the Examiner to designate independent claim 19 as a generic claim.

Applicant submits that the Examiner's rationale to support the Restriction Requirement is insufficient. The Examiner states that "[t]he species are independent or distinct because the search required for Group II isn't required for Group I." (Restriction

Reply to Restriction Requirement 4-4-06.doc

Application No. 10/740,747  
Reply to Restriction Requirement dated April 4, 2006  
Reply to Restriction Requirement of March 31, 2006


Requirement, page 2, paragraph 1). If Applicant were to choose Group I, the field of search would be the same. According to the MPEP, where "the classification and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions." (MPEP § 808.02). Accordingly, Applicant submits that the Examiner's rationale for supporting the present Restriction Requirement is insufficient and respectfully requests the withdrawal of the present Restriction Requirement.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: April 4, 2006

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